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U.S. SMALL BUSINESS ADMINISTRATION,  
as Receiver for PROSPERO VENTURES, L.P.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

U.S. SMALL BUSINESS  
ADMINISTRATION, as Receiver for  
PROSPERO VENTURES, L.P.,

Plaintiff,

v.

DONALD K. EMERY,

Defendant.

NO. C 07-03741 VRW

Related Cases:  
C07-03739-VRW (Closed); C07-03737-  
VRW (Closed); C07-03732-VRW  
(Closed); C07-03736-VRW (Closed);  
C07-03738-VRW (Closed).

**STIPULATION TO CONTINUE  
HEARING AND ~~PROPOSED~~  
ORDER THEREON**

This stipulation is entered into by and between plaintiff, U.S. SMALL BUSINESS  
ADMINISTRATION, as Receiver for PROSPERO VENTURES, L.P., and defendant, DONALD  
K. EMERY, on the following recitals, terms, and agreements:

1 *U.S. Small Business Administration,*  
2 *as Receiver for Prospero Ventures, L.P.*  
3 *v. Donald K. Emery*  
4 Case No.C 07-03741 VWS

5 **RECITALS**

6 This stipulation is entered into with the following facts taken into consideration:

7 A. Plaintiff filed the above-captioned action on July 19, 2007.

8 B. Plaintiff thereafter served the complaint on defendant on August 13, 2007.

9 C. Defendant filed an answer on October 19, 2007.

10 D. The Court scheduled a hearing on Plaintiff's Motion to Strike Affirmative  
11 Defenses, or in the alternative, Motion for Judgment on the Pleading and Defendant's Motion to  
12 Amend Response to Complaint for November 6, 2008 at 2:30 P.M.

13 E. On November 4, 2008, Defendant submitted a financial disclosure form to the  
14 SBA and the parties are working toward a settlement of the case.

15 F. In order to permit the parties time to negotiate, the parties request a continuance of  
16 the November 6, 2008 hearing for a period not to exceed 60 days.

17 **STIPULATION**

18 With the above facts taken into consideration, the adequacy and sufficiency of which are  
19 hereby acknowledged, the parties do hereby stipulate and agree as follows:

20 1. The hearing on Plaintiff's Motion to Strike Affirmative Defenses, or in the  
21 alternative, Motion for Judgment on the Pleading and Defendant's Motion to Amend Response  
22 to Complaint shall be continued for a period of time not to exceed 60 days.

23 2. All other dates previously calendared shall remain in effect; and,

24 3. This stipulation may be executed in counterparts and a facsimile and/or electronic  
25 signature shall be considered as valid as an original.

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1 *U.S. Small Business Administration,*  
2 *as Receiver for Prospero Ventures, L.P.*  
3 *v. Donald K. Emery*  
4 Case No.C 07-03741 VWS

5 Dated: November 5, 2008

COLEMAN & HOROWITT, LLP

7 By: /s/ Darryl J. Horowitz  
8 DARRYL J. HOROWITT  
Attorneys for Plaintiff

10 Dated: November 5, 2008

DONOGHUE, BARRETT & SINGAL, P.C

12 By: /s/ Bruce A. Singal  
13 BRUCE A. SINGAL  
Attorney for Defendant

14 **ORDER**

15 The parties having so stipulated and good cause appearing therefore,

16 IT IS HEREBY ordered the hearing scheduled for November 6, 2008, at <sup>2:30</sup>~~3:00~~ p.m. on  
17 plaintiff's motion to strike affirmative defenses or judgment on the pleadings and defendant's  
18 motion to amend its answer are continued until January 8, 2009, at <sup>2:30</sup>~~3:00~~ p.m.

19 Dated: November 6, 2008

